

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ENTERED

March 14, 2024

Nathan Ochsner, Clerk

JEFFERY DILLEN and HOLLY DILLEN,
Plaintiffs,

v.

QBE INSURANCE CORPORATION,
Defendant.

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CIVIL ACTION NO. 4:23-CV-2043


ORDER

Defendant QBE Insurance Corporation's ("QBE") Motion to Dismiss (Doc. No. 8) is hereby denied as moot since Plaintiffs filed a First Amended Complaint. QBE's Motion to Dismiss the First Amended Complaint (Doc. No. 11) is **GRANTED**, and the First Amended Complaint is hereby dismissed.

Plaintiffs' allegations of insurance violations are conclusory and devoid of actual facts. As such, the First Amended Complaint falls afoul of the dictates of both *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). Just as important as the lack of facts regarding the alleged conduct that violated the Texas Insurance Code is the lack of factual allegations that tie any conduct of QBE to any damages suffered by the Plaintiffs.

While QBE's Motion to Dismiss (Doc No. 11) is granted, the Court feels the ends of justice are best served by allowing Plaintiffs a chance to cure these lapses. Therefore, Plaintiffs may file a Second Amended Complaint to correct the omissions if they do so **by April 15, 2024**. They need not request leave to file as this order grants them that leave. If a Second Amended Complaint is filed, QBE may respond as it sees fit pursuant to the Federal Rules of Civil Procedure. If a Second Amended Complaint is not filed **by April 15, 2024**, this case will be dismissed with prejudice.

SIGNED this 14th day of March 2024.



Andrew S. Hanen
United States District Judge